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U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

FILE:

Office: MIAMI

Date:

IN RE: Applicant:

MAY 13 2003

APPLICATION:

Application for Waiver of Grounds of Inadmissibility under
Section 212(i) of the Immigration and Nationality Act, 8
U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

MAY 13 2003 01H2212

DISCUSSION: The waiver application was denied by the Acting District Director, Miami, Florida, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Jamaica who was found to be inadmissible to the United States under section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(ii), for falsely representing himself as a United States citizen for any purpose or benefit in July 1999. The record reflects that the applicant falsely represented himself as a U.S. citizen on a passport application. He was convicted of a violation of 18 U.S.C. § 1621, lying on a passport application after making an oath.

A violation of 18 U.S.C. § 1621 is considered to be Perjury and a crime involving moral turpitude. *U.S. ex rel. Flores v. Savoretti*, 205 F.2d 544 (5th Cir. 1953).

The applicant was admitted to the United States on February 20, 1996, as a nonimmigrant to attend a training seminar. The applicant remained beyond his authorized stay of May 8, 1996, without applying for or receiving an extension of temporary stay. He married a U.S. citizen on December 23, 1998 and is the beneficiary of an approved Petition for Alien Relative. The applicant seeks the above waiver under section 212(i) of the Act, 8 U.S.C. § 1182(i).

The acting district director concluded that no waiver was available for a violation of section 212(a)(6)(C)(ii) of the Act and denied the application accordingly.

On appeal, counsel states that the applicant did not plead guilty to the criminal count charging him with "falsely claiming citizenship." Counsel then requested an additional 90 days to submit a written brief. It has been over five months since the appeal was filed and no further information has been received. A decision will be made based on the information in the record.

Section 212(a)(6)(C) of the Act provides, in part, that:

(i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

(ii) Any alien who falsely represents, or has falsely represented himself or herself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any other Federal or State law is inadmissible.

Section 212(i) of the Act provides that:

(1) The Attorney General, may, in the discretion of the Attorney General, waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the

spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

(2) No court shall have jurisdiction to review a decision or action of the Secretary regarding a waiver under paragraph (1).

The record clearly reflects that the applicant falsely represented himself as a U.S. citizen in violation of "any other Federal law" notwithstanding the particular charge under which he was convicted. An alien who falsely claims to be a United States citizen for any purpose or benefit is inadmissible under section 212(a)(6)(C)(ii) of the Act, and no waiver is available for such a violation. Therefore, the appeal will be dismissed.

ORDER: The appeal is dismissed.